

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

PERRY RAY

§

VS.

§

CIVIL ACTION NO. 1:09cv56

WARDEN ALFORD

§

MEMORANDUM OPINION

Plaintiff Perry Ray, proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983.

Procedural Background

On March 30, 2009, the court entered an order directing plaintiff to pay an initial partial filing fee of \$11.67. Plaintiff was given 30 days to comply with the court's order. Plaintiff acknowledged receipt of the court's order on April 1, 2009. However, plaintiff has not paid the initial partial filing fee, shown good cause for failing to do so or otherwise contacted the court.

Discussion

Federal Rule of Civil Procedure 41(b) authorizes a district court to dismiss an action for failure to prosecute or for failure to comply with any court order. *Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998). "This authority [under Rule

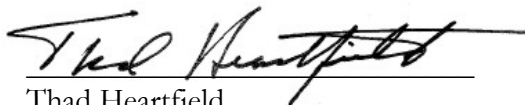
41(b)] flows from the court's inherent power to control its docket and prevent undue delays in the disposition of pending cases." *Boudwin v. Graystone Insurance Co., Ltd.*, 756 F.2d 399, 401 (5th Cir. 1985).

By failing to comply with the order described above, plaintiff has failed to diligently prosecute this case. As a result, this case will be dismissed for want of prosecution.

Conclusion

For the reasons set forth above, this lawsuit will be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b). If plaintiff wishes to have this case reinstated on the court's active docket, he may do so by paying the initial partial filing fee within 30 days of the date set forth below.

**SIGNED** this the **19** day of **May, 2009**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield  
United States District Judge